

House File 213 - Introduced

HOUSE FILE 213

BY HELLAND

A BILL FOR

1 An Act relating to the meetings and actions of the governing
2 boards of certain nonprofit corporations and horizontal
3 property regimes and including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 499B.15, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. a. If the form of administration is a board of
4 administration, board meetings must be open to all apartment
5 owners except for meetings between the board and its attorney
6 with respect to proposed or pending litigation where the
7 contents of the discussion would otherwise be governed by
8 the attorney-client privilege. Notice of each board meeting
9 must be mailed or delivered to each apartment owner and
10 to each member of the board at least seven days before the
11 meeting. Each notice shall contain the date, time, place,
12 and purpose of the meeting. Minutes of meetings of the board
13 of administration must be maintained in written form or in
14 another form that can be converted into written form within
15 a reasonable time. The official records of the board of
16 administration must be open to inspection and available for
17 photocopying at reasonable times and places. Any action taken
18 by a board of administration at a meeting that is in violation
19 of any of the provisions of this subsection is not valid or
20 enforceable.

21 b. An apartment owner may seek judicial enforcement of
22 the requirements of this subsection within six months of the
23 alleged violation. Suits to enforce this subsection shall
24 be brought in the district court for the county in which the
25 declaration under section 499B.3 was filed. In any judicial
26 action, the board shall have the burden of proving that the
27 requirements of this subsection have been met. If a board
28 fails to prove by a preponderance of the evidence that the
29 board complied with the requirements of this subsection, the
30 court shall:

31 (1) Award costs and reasonable attorney fees to the
32 prevailing party.

33 (2) Issue an order declaring any action taken by the
34 board at a meeting that violated this subsection invalid and
35 unenforceable.

1 (3) If the court determines that a violation of this
2 subsection is likely or about to occur, enjoin the board from
3 committing the violation.

4 Sec. 2. Section 504.823, Code 2011, is amended to read as
5 follows:

6 **504.823 Call and notice of meetings.**

7 1. Unless the articles or bylaws of a corporation, or
8 subsection 3 or 5, ~~provide~~ provides otherwise, regular meetings
9 of the board may be held without notice.

10 2. Unless the articles, bylaws, or subsection 3 or 5 ~~provide~~
11 provides otherwise, special meetings of the board must be
12 preceded by at least two days' notice to each director of the
13 date, time, and place, but not the purpose, of the meeting.

14 3. In corporations without members, any board action to
15 remove a director or to approve a matter which would require
16 approval by the members if the corporation had members shall
17 not be valid unless each director is given at least seven
18 days' written notice that the matter will be voted upon at
19 a directors' meeting or unless notice is waived pursuant to
20 section 504.824.

21 4. Unless the articles or bylaws provide otherwise, the
22 presiding officer of the board, the president, or twenty
23 percent of the directors then in office may call and give
24 notice of a meeting of the board.

25 5. a. Notwithstanding any provision of this chapter to
26 the contrary, homeowners' association board meetings shall be
27 open to all members except for meetings between the board and
28 its attorney with respect to proposed or pending litigation
29 where the contents of the discussion would otherwise be
30 governed by the attorney-client privilege. Notice of each
31 board meeting shall be mailed or delivered to each member and
32 to each director at least seven days before the meeting. Each
33 notice shall contain the date, time, place, and purpose of the
34 meeting. Any action taken by a board at a meeting that is in
35 violation of any of the provisions of this subsection is not

1 valid or enforceable.

2 b. A member may seek judicial enforcement of the
 3 requirements of this subsection within six months of the
 4 alleged violation. Suits to enforce this subsection shall
 5 be brought in the district court for the county in which a
 6 majority of the area of real estate governed by the homeowners'
 7 association is located. In any judicial action, the
 8 homeowners' association board shall have the burden of proving
 9 that the requirements of this subsection have been met. If a
 10 homeowners' association fails to prove by a preponderance of
 11 the evidence that the homeowners' association complied with the
 12 requirements of this subsection, the court shall:

13 (1) Award costs and reasonable attorney fees to the
 14 prevailing party.

15 (2) Issue an order declaring any action taken by the
 16 homeowners' association board at a meeting that violated this
 17 subsection invalid and unenforceable.

18 (3) If the court determines that a violation of this
 19 subsection is likely or about to occur, enjoin the homeowners'
 20 association from committing the violation.

21 c. For purposes of this subsection, "homeowners'
 22 association" means a corporation responsible for the
 23 administration and operation of an area of real property
 24 comprised of land and buildings used primarily for human
 25 habitation, whose membership consists of parcel owners or their
 26 agents, and, as a condition of parcel ownership, membership in
 27 the corporation is mandatory.

28 Sec. 3. APPLICABILITY. This Act applies to homeowners'
 29 association board meetings and horizontal property regime board
 30 of administration meetings occurring on or after July 8, 2011.

31 EXPLANATION

32 This bill applies to horizontal property regimes
 33 (condominiums) under Code chapter 499B and to homeowners'
 34 associations organized under the revised Iowa nonprofit
 35 corporation Act, Code chapter 504.

1 The bill amends Code section 504.823 to require homeowners'
2 association board meetings to be open to all members except
3 for meetings between the board and its attorney with respect
4 to proposed or pending litigation where the contents of the
5 discussion would otherwise be governed by the attorney-client
6 privilege. The bill also requires notice of each board meeting
7 to be mailed or delivered to each member and to each director
8 at least seven days before the meeting. Each notice must
9 contain the date, time, place, and purpose of the meeting.
10 Any action taken by a board at a meeting that is in violation
11 of the bill is not valid or enforceable. The bill defines
12 "homeowners' association" as a corporation responsible for
13 the administration and operation of an area of real property
14 comprised of land and buildings used primarily for human
15 habitation, whose membership consists of parcel owners or their
16 agents, and as a condition of parcel ownership, membership in
17 the corporation is mandatory.

18 The bill allows an aggrieved member of the homeowners'
19 association to seek judicial enforcement of the requirements
20 of the bill within six months of the alleged violation. In
21 any judicial action, the homeowners' association board has
22 the burden of proving that the requirements of the bill have
23 been met. If a homeowners' association fails to prove by a
24 preponderance of the evidence that the homeowners' association
25 complied with the requirements of this subsection, the
26 court shall award costs and reasonable attorney fees to the
27 prevailing party, issue an order declaring any action taken by
28 the homeowners' association board at a meeting that violated
29 this subsection invalid and unenforceable, and if the court
30 determines that a violation of this subsection is likely
31 or about to occur, enjoin the homeowners' association from
32 committing the violation.

33 The bill also includes similar provisions for the
34 contents of meeting notices, judicial enforcement of meeting
35 requirements, and burden of proof requirements for horizontal

1 property regimes under Code chapter 499B.

2 The bill applies to homeowners' association board meetings
3 and horizontal property regime board of administration meetings
4 occurring on or after July 8, 2011.